

DEPARTMENT OF SOCIAL SERVICES
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January 2, 1986

ALL-COUNTY LETTER NO. 86-02

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY COUNSELS
ALL COUNTY PROBATION DEPARTMENTS

SUBJECT: RESTRICTION OF FAMILY REUNIFICATION SERVICES; DEFINITION OF
SEXUAL EXPLOITATION (AB 366, CHAPTER 1068, STATUTES OF 1985)

Assembly Bill 366 (Vicencia) was signed into law as Chapter 1068, Statutes of 1985. It was an urgency measure and became effective on September 27, 1985. A copy of pertinent sections of this act which affect child welfare services is attached for your information. Those provisions impact child welfare services in two areas: 1) limitations on the provision of family reunification services; and, 2) the definition of "sexual exploitation."

Family Reunification. Welfare and Institutions Code (WIC) Section 16507 is amended to specify that family reunification services shall only be provided if a child is in foster care. Civil Code Section 4609 is also added to expressly prohibit family reunification services being ordered by the court as part of a child custody or visitation rights proceeding. These two provisions should provide some assurance that family reunification services are not ordered by the courts or offered on a voluntary basis in inappropriate circumstances involving primarily marriage dissolution custody issues.

Sexual Exploitation. Penal Code Section 11165.3 is added to recast and expand the definition of "sexual exploitation" set forth in Penal Code Section 11165(b)(2). Section 11165.3 language refines the state statutory definition of "sexual exploitation" to more closely parallel federal child abuse and neglect definitions.

Specifically, Section 11165.3 clarifies that, for purposes of defining "sexual exploitation", the term "person responsible for a child's welfare" includes a "parent, guardian, foster parent, or a licensed administrator, or employee of a public or private residential home, residential school, or other residential institution."

Additionally, Section 11165.3 includes in the definition of "sexual exploitation", posing or modeling for the purpose of preparing a drawing, painting, or other pictorial depiction of obscene, sexual conduct. It also deletes the requirement that such depiction be for commercial purposes.

The statutory changes regarding restrictions on family reunification services primarily affect court decisions. Because this bill was an urgency measure, the judicial system will be taking steps to assure that judges are aware of the changes. Also the Department will be publishing proposed regulations to provide further clarifications to county welfare departments regarding these changes.

If you have any questions regarding these subjects, please contact your Adult and Family Services Operations Consultant, at (916) 445-0623 or ATSS 485-0623.



LOREN D. SUTER
Deputy Director
Adult and Family Services Division

Attachments

cc: CWDA

EXCERPTS FROM
AB 366 - CHAPTER 1068, STATUTES OF 1985

The people of the State of California do enact as follows:

SECTION 1. Section 4609 is added to the Civil Code, to read:
4609. In accordance with Section 16507 of the Welfare and Institutions Code, family reunification services shall not be ordered as part of a child custody or visitation rights proceeding brought under this part.

SEC. 2. Section 11165.3 is added to the Penal Code, to read:

11165.3. (a) Notwithstanding the provisions of subparagraph (B) of paragraph (2) of subdivision (b) of Section 11165, on and after the effective date of this section, instead of the meaning given in that subparagraph sexual exploitation refers to any person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or any person responsible for a child's welfare who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or a live performance involving obscene sexual conduct or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, drawing, painting, or other pictorial depiction, involving obscene sexual conduct. For the purpose of this section, "person responsible for a child's welfare" means a parent, guardian, foster parent, or a licensed administrator, or employee of a public or private residential home, residential school, or other residential institution.

(b) Notwithstanding the provisions of Section 11165, on and after the effective date of this section, the definition of abuse in out-of-home care made in that section is applicable to acts of an administrator or an employer of a public or private home, school, or institution only when the home, school, or institution is a residential institution. The definition is not applicable to an agency.

SEC. 3. Section 16507 of the Welfare and Institutions Code is amended to read:

16507. Family reunification services shall be provided or arranged for by county welfare department staff in order to reunite the child separated from his or her parent because of abuse, neglect, or exploitation. These services shall not exceed 12 months except as

provided in subdivision (e) of Section 361. Family reunification services shall be available without regard to income to families whose child has been adjudicated or is in the process of being adjudicated a dependent child of the court under the provisions of Section 300. Family reunification services shall include a plan for visitation of the child by his or her grandparents, where the visitation is in the best interests of the child and will serve to maintain and strengthen the family relationships of the child.

Family reunification services shall only be provided when a child has been placed in foster care.